

08-23-02

US 10/507,382

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Attn: Paul W. Dickinson  
Art. Unit 1609  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, Virginia 22313-1450

Date: August 21, 2007

**Reply to USPTO office action**

**Application No.:** 10/507,382  
**Applicant's Reference:** MGC020325

**Date of USPTO office action:** July 24, 2007  
**Reply Due Date:** August 24, 2007

Applicant respectfully acknowledges the professional examination of the application and appreciates the telephone consultation with patent examiners Paul W. Dickinson and Ardin H. Marschel on August 20, 2007. Applicant also appreciates the opportunity to provide a response to the action the office took.

A. In the office action dated July 24, 2007, the Office raised an issue that the application contains claims directed to more than one species of the generic invention in Claims 1-3, 5 and therefore these species are deemed to lack unity of invention under PCT Rule 13.1. The species that the Office referred to are: A lipid-improving agent selected from non-glucose-lowering fibrates. The Office reasons that the lipid-improving agents in Claims 1-3, 5 each have separate molecular structures and different pharmacological mechanisms and side-effects.

Applicant respectfully disagrees based on the following facts and requests reconsideration by the Office.

1. As stated above, the species that the Office referred to are: **A lipid-improving agent selected from non-glucose-lowering fibrates**. We would like to point out that "lipid-lowering agent" is restricted by "non-glucose-lowering fibrates".
2. Fibrates is commonly known to be a class of drug that reduces plasma triglycerides and increases plasma HDL cholesterol. They all belong to a chemical structure class called "fibrate" and possess the same pharmacological mechanism of action by acting on PPAR $\alpha$  (alpha) receptors. As such, **all fibrates have the same or corresponding special technical features**. Under PCT Rule 13.2, the species does relate to a single general inventive concept.
3. Furthermore, "**non-glucose-lowering**" is another common special technical feature for the fibrates the present application claimed. Under PCT Rule 13.2, the species does relate to a single general inventive concept.

4. Based on the above facts, we believe that the species is so linked as to form a single general inventive concept under PCT Rule 13.1 and is deemed to be unity of invention.

In response to the first election requirement of the Office Action, the applicant elects "gemfibrozil" from Claim 2.

- B. Also in the office action dated July 24, 2007, the Office raised an issue that the application contains claims directed to more than one species of the generic invention in Claims 9 and therefore these species are deemed to lack unity of invention under PCT Rule 13.1. The species that the Office referred to are: Diseases, disorders or conditions. The Office reasons that the diseases, disorders or conditions in Claim 9 each have different causes, symptoms or treatments.

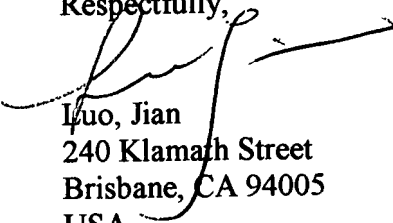
Applicant respectfully disagrees based on the following facts and requests reconsideration by the Office.

1. As stated above, the species that the Office referred to are: **Diseases, disorders or conditions**. The species when stands alone may as the Office stated have different causes, symptoms or treatments. However, in the context of Claim 9, these "Diseases, disorders or conditions" all have a component of "**abnormality in plasma glucose levels or glucose metabolism**". The "abnormality in plasma glucose levels or glucose metabolism" is **the same or corresponding special technical features** for each of the "Diseases, disorders or conditions". Under PCT Rule 13.2, the species does relate to a single general inventive concept.

In response to the second election requirement of the Office Action, the applicant elects "diabetes mellitus" from Claim 9.

Applicant respectfully requests the Office to consider the above facts in the further examination.

Respectfully,



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